



County of Los Angeles CHIEF EXECUTIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

November 20, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**REGISTRAR-RECORDER/COUNTY CLERK: APPROVE AND EXECUTE
A 5-SIGNATURE BOARD LETTER
TO THE CALIFORNIA SECRETARY OF STATE REGARDING
VOTING SYSTEMS USED IN LOS ANGELES COUNTY
(ALL DISTRICTS – 3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and send the attached 5-signature Board Letter to the California Secretary of State (SOS) regarding the County's need to move forward in identifying voting systems to be used by the County of Los Angeles in the 2008 elections.
2. Instruct the Registrar-Recorder/County Clerk (RR/CC) to:
 - Conduct all 2008 elections using the County-developed and State approved Microcomputer Tally System (MTS) to centrally tabulate all election ballots;
 - Utilize the InkaVote Plus Precinct Ballot Readers and Audio Ballot Booths for voter protection and disability access at each precinct in compliance with the Federal Help America Vote Act;
 - Comply, to the extent that is reasonable and prudent, with any yet to be identified conditions imposed on MTS and InkaVote Plus by the Secretary of State in pending voting systems certification documentation;

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

- Discontinue the County's optional Touch Screen Early Voting Program until such time as operational provisions are established by the Secretary of State that can reasonably be implemented by the County or upon agreement with the Secretary of State on alternative conditions that can be reasonably implemented by the County for the 2008 elections; and
- Conduct an aggressive voter outreach program to inform voters of available alternatives to the County's Touch Screen Early Voting Program for casting ballots in the 2008 elections.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is to make critical, time sensitive determinations on the voting systems to be used in the administration of elections in 2008; to facilitate efficient, secure and legally compliant administration of elections; and to comply with the provisions of the Board's June 26, 2007 Agreement with the Secretary of State regarding the review and certification of voting systems.

Implementation of Strategic Plan Goals

This request supports the County Strategic Plan as follows:

Goal No. 1: Service Excellence: Provide the public with easy access to quality information and services that are both beneficial and responsive. The Agreement supports efforts to assure the public of the transparency, integrity and viability of Los Angeles County's vote tabulation system.

Goal No. 3: Organizational Effectiveness: Ensure that service delivery systems are efficient, effective, and goal-oriented. The Agreement allows the County to maintain a secure and viable vote tally system, which is critical to the accurate, transparent, and secure administration of federal, State and local elections.

FISCAL IMPACT/FINANCING

There is no direct cost to the County of Los Angeles associated with these actions. The costs associated with the voter outreach effort will be offset by savings from the discontinuation of the touch screen early voting program. There are potential fiscal impacts associated with the conditions the Secretary of State may impose on the County's voting systems, but those conditions remain unknown at this time.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The RR/CC is responsible for conducting federal, State and local elections in accordance with the California Elections Code. In conjunction with that responsibility, the RR/CC must ensure that all voting systems utilized in administering elections in Los Angeles County meet applicable State and federal voting systems certification requirements.

Central Vote Tabulation

The RR/CC currently utilizes a blended voting system where paper-based ballots are tabulated on the County's MTS vote tabulation system. MTS is a County-owned and developed system maintained and supported by the County's Internal Services Department (ISD). In this regard, the County is considered a voting systems vendor. MTS was certified for use as part of the Los Angeles County blended voting system and has been used successfully and accurately to tabulate ballots since 1998.

It has been the County's intent to replace the MTS with an updated vote tabulation system that meets modern technical standards and provides options for adoption of different polling place equipment in future elections to best serve voters.

On May 15, 2007, the SOS notified the RR/CC of her intent to initiate a review of all voting systems certified for use in California and, more specifically, to conduct a review of the County's MTS and related components. In consultation with County Counsel, the RR/CC responded to the SOS on May 18, 2007 requesting clarification of issues related to the manner and location in which the review would be conducted.

On June 26, 2007, your Board executed an Agreement with the SOS memorializing the County's intent to replace the existing, certified MTS with the Diebold GEMS II tally system in 2008, upon certification of that system by the SOS for use in California by November 1, 2007.

The Agreement also provided assurances that MTS would remain a viable vote tabulation system that may be used in the conduct of elections should either the County or the SOS determine that a successful election cannot be conducted using GEMS II, or in the event that GEMS II does not receive certification by November 1, 2007. That certification has not occurred. Therefore, to ensure a successful election, we must continue to use the County's certified and proven Microcomputer Tally System (MTS) to conduct the February 2008 Presidential Primary Election and forgo plans to transition to the GEMS II replacement central tabulation system until a later date.

Federally Compliant Voter Protection and Disability Access

In order to comply with federal law, the Help America Vote Act (HAVA), the InkaVote Plus system was implemented for the November 2006 election. It includes two pieces of equipment at each polling location on Election Day in order to comply with federal law:

- 1) A Precinct Ballot Reader (PBR). This is used to check voted ballots and to alert voters of inadvertent errors related to marking more positions for a contest or ballot measure than allowed or to indicate that the ballot is being read as a blank ballot. Voters are then given the opportunity to correct the errors before their ballot is deposited into the ballot box. This process complies with the second-chance voting requirements of HAVA; and
- 2) The Audio Ballot Booth (ABB). This device is equipped with audio equipment and head phones to allow voters with disabilities, including those who are blind, the opportunity to vote independently as required by HAVA. The device also provides audio ballot capability in each of the six required alternate languages to assist multi-lingual voters. The ABB produces a marked ballot card that is deposited into the ballot box. Audio ballots are counted centrally with all other InkaVote ballots.

The InkaVote Plus system is not used to tabulate ballots or to report election results. All voted ballots are returned to and counted centrally at the RR/CC Norwalk Headquarters. Similar to MTS, the InkaVote Plus Precinct Ballot Protection and Accessibility Equipment is subject to both re-certification and additional use conditions by the SOS. At this late date, it will be necessary for the County to utilize InkaVote Plus with minimal variation from the manner in which the system was successfully used in the November 2006 General Election and the nine subsequent elections held in 2007. Absent the use of InkaVote Plus, there is no other viable alternative for the County to comply with the voter protection and disability access provisions of federal law.

Touch Screen Early Voting

For early voting purposes only, for the past seven years the County has utilized Premier Election Solutions touch screen voting devices (TSX) at 17 locations throughout the County during the ten days prior to each statewide election. This voting option has been successfully used by over 200,000 Los Angeles County voters for all statewide elections since it was instituted beginning with the November 2000 Presidential Election. Touch screen early voting served 60,000+ voters in casting their ballots in the last Presidential Election (November 2004).

On August 3, 2007, the SOS rescinded approval of the TSX Voting System and then immediately re-certified the system with conditions and limitations on its use. Among the conditions is the requirement that all ballots cast on TSX voting devices must be 100 percent manually counted. Additionally, the type of facilities and staffing of early voting locations must meet specific security and accountability conditions as set forth in the Secretary's re-certification document.

On October 25, 2007, the SOS issued amended re-certification documents for the Premier TSX voting system and a set of Post Election Manual Tally Requirements that clarify that the 100 percent manual count of any votes cast on Premier TSX devices must be completed prior to election certification. As detailed in the RR/CC's August 14, 2007 report to the Board and subsequent updates, the RR/CC has determined that the County is unable to comply with this condition while simultaneously conducting all other legally required vote canvassing activities during the limited time period allotted for final vote certification.

Due to deadlines and financial commitments necessary to reserve and prepare early voting sites for use in January for the February election, without modifications to the use conditions and the SOS Post Election Manual Tally Requirements, it is recommended that your Board discontinue the touch screen early voting program until such time as security and operational provisions are established by the Secretary of State that can reasonably be implemented by the County, or an agreement is reached with the Secretary of State on alternative conditions that can be reasonably implemented by the County for the 2008 elections. While there is no legal mandate to offer touch screen early voting options, we recognize the sudden end of this program may be an inconvenience to voters who have used the early voting program in previous elections. As such, we intend to institute an aggressive outreach program to alert voters to other options available to ensure that they have every opportunity to vote.

CONTRACTING PROCESS

There was no contracting process associated with this Agreement.

IMPACT ON CURRENT SERVICES

Approval and execution of the 5-signature letter will ensure the SOS is informed of critical decisions and timing constraints relevant to the County's voting systems and ability to administer the 2008 elections.

Honorable Board of Supervisors
November 20, 2007
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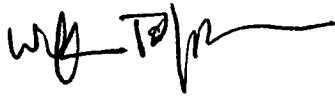
CONCLUSION

Upon approval and execution of the Board letter, it is requested that the Executive Officer/Clerk of the Board, return one adopted stamped copy of the approved Board letter and two originally signed copies of the 5-signature letter to:

County of Los Angeles
Registrar-Recorder/County Clerk
12400 Imperial Highway, Room 7201
Norwalk, CA 90650

Attention: Dean Logan, Chief Deputy
Registrar-Recorder/County Clerk

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. T. Fujioka', with a long horizontal flourish extending to the right.

WILLIAM T FUJIOKA
Chief Executive Officer

Attachment

c: Registrar-Recorder/County Clerk
County Counsel



SACHI A. HAMAI
EXECUTIVE OFFICER

COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 383
LOS ANGELES, CALIFORNIA 90012
(213) 974-1411 • FAX (213) 620-0636

November 21, 2007

MEMBERS OF THE BOARD

GLORIA MOLINA

YVONNE B. BURKE

ZEV YAROSLAVSKY

DON KNABE

MICHAEL D. ANTONOVICH

The Honorable Debra Bowen
Secretary of State
1500 11th Street, Suite 600
Sacramento, CA 94814

Dear Madame Secretary:

We are writing to inform you of critical decisions that must be made relating to voting systems that will be used by the County of Los Angeles (County) in the 2008 elections. With only 77 days remaining until the February 5, 2008 Presidential Primary Election, we must now decide on the voting systems, equipment, supplies, and resources necessary to conduct a successful election.

The June 26, 2007 Agreement (Agreement) between our Board and your office was premised on the County's intention to migrate from the County-developed and State-approved Microcomputer Tally System (MTS) to Premier Election Solutions (formerly Diebold) GEMS II for the February 5, 2008 Presidential Primary Election if that system was certified and ready for use. The Agreement, however, authorized the continued use of MTS if GEMS II was not certified for use in the State by November 1, 2007.

Despite cooperative efforts on your part and by the Registrar-Recorder/County Clerk, GEMS II certification has not been completed within the agreed upon timelines. As such, the County has determined that it must use MTS for all elections in 2008 to avoid complications associated with a major systems change midway through a Presidential Election cycle.

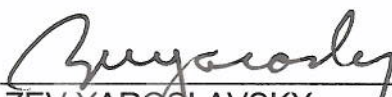
Continued use of the County's InkaVote Plus voting system components is also necessary. At this late date, the County has no other means of logistical compliance with Federal requirements for voter ballot protection and disability access. We must be given authority to use InkaVote Plus in 2008 with minimal variation from the manner in which it was successfully used in the November 2006 General Election and nine subsequent elections conducted in 2007. As a reminder, the InkaVote Plus system is not used to tabulate ballots or to report election results. All voted ballots are returned to and counted centrally at the Registrar-Recorder/County Clerk's Norwalk Headquarters.

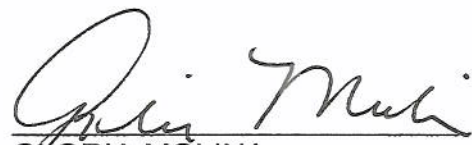
The Honorable Debra Bowen
November 20, 2007
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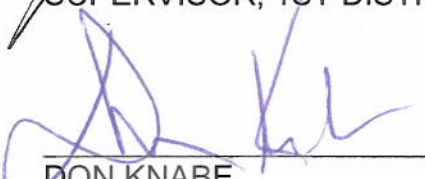
In anticipation of the probability that certain conditions or directives may be applied to both MTS and InkaVote Plus, we ask that you consider the Registrar-Recorder/County Clerk specific concerns and to recognize the differences in the inherent security and unique configuration of the voting systems used in this County and those of other voting systems approved for use in the State. We ask that the conditions imposed, if any, be determined immediately, by closely working with the Registrar-Recorder/County Clerk to minimize disruption or further operational risk to the planning and administration of the February 5, 2008 Presidential Primary Election.

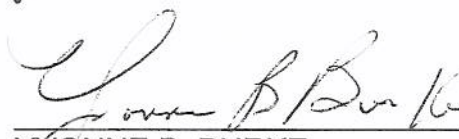
Thank you for your timely consideration and response to this request.

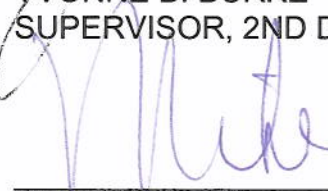
Very truly yours,



ZEV YAROSLAVSKY
CHAIRMAN
SUPERVISOR, 3RD DISTRICT

GLORIA MOLINA
SUPERVISOR, 1ST DISTRICT

DON KNABE
SUPERVISOR, 4TH DISTRICT

YVONNE B. BURKE
SUPERVISOR, 2ND DISTRICT


MICHAEL D. ANTONOVICH
SUPERVISOR, 5TH DISTRICT